

Message Text

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TO AMEMBASSY OTTAWA PRIORITY

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TAGS: ETRD, CAN, UK

SUBJECT: ANTITRUST: PRATT-WHITNEY/ROLLS-ROYCE JOINT
VENTURE

REF: STATE 296220

1. ON DECEMBER 8, 1976, JUSTICE INFORMED BY LETTER LEGAL
COUNSEL FOR UNITED TECHNOLOGIES CORPORATION (UTC), PARENT
OF PRATT & WHITNEY AIRCRAFT (CANADA) (P&W), AND ROLLS
ROYCE LIMITED OF ITS DECISION UPHOLDING THE DECEMBER 1975
DETERMINATION THAT QUOTE THE JT-10D COLLABORATION STRUC-
TURED AND OPERATED SO AS TO REDUCE THE POSSIBILITY OF
AN ANTICOMPETITIVE 'SPILL OVER' ... BUT THAT THE PROPOSED
RB-401 COLLABORATION, PRESENT(S) SERIOUS COMPETITIVE
PROBLEMS ... UNQUOTE.

2. IN UPHOLDING THIS PRIOR DECISION, JUSTICE TOOK INTO
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CONSIDERATION THE FOLLOWING FACTORS SUBMITTED BY THE

AFFECTED COMPANIES IN MAY 1976: (1) THE RB-401 COLLABORATION IS NOT ONE TO WHICH ANY U.S. COMPANY IS OR WILL BE A PARTY; (2) THERE ARE ALREADY SEVERAL COMPETITORS WITH EXISTING ENGINES IN THE 5,000 TO 6,000 POUND THRUST CATEGORY; (3) THE BRITISH GOVERNMENT, THROUGH THE NATIONAL ENTERPRISE BOARD, HAS STATED THAT IT WILL NOT SUPPORT OR

PERMIT DEVELOPMENT BY ROLLS ROYCE (RR) OF AN RB-401 CLASS ENGINE UNLESS RR OBTAINS A PARTNER OF SUITABLE CAPABILITIES AND THAT P&W CANADA IS VIEWED AS THE ONLY VIABLE CANDIDATE; AND (4) P&W CANADA HAS ABANDONED ITS DEVELOPMENT EFFORTS ON THE JT-25D, A 5-6,000 POUND THRUST ENGINE WHICH WOULD HAVE BEEN COMPETITIVE WITH THE PROPOSED RB-401 ENGINE.

3. JUSTICE STATES THAT IT HAS FULLY CONSIDERED THE COMPANIES' CONTENTIONS AS TO THE CHANGED CIRCUMSTANCES SURROUNDING THE RB-401 COLLABORATION AND ANALYZED THEM IN LIGHT OF EXTENSIVE INFORMATION GATHERED DURING THE COURSE OF A SECOND INQUIRY. ON THE BASIS OF THIS ANALYSIS JUSTICE HAS DETERMINED THAT THERE IS NO RPT NO REASON FOR IT TO REVERSE, ALTER OR AMEND ITS DECEMBER 15, 1975 DECISION REGARDING THE RB-401 COLLABORATION, NAMELY THAT IT QUOTE WOULD PRESENT SERIOUS COMPETITIVE PROBLEMS IF ROLLS ROYCE (1971) LIMITED AND UNITED TECHNOLOGIES CORPORATION PROCEED AS PLANNED IN REGARD TO IT. UNQUOTE.

4. IN ARRIVING AT THIS SECOND DECISION ON THE RB-401 COLLABORATION JUSTICE EXPLAINED THAT: (1) UTC, A UNITED STATES CORPORATION, OWNS AND CONTROLS P&W CANADA. ACCORDINGLY, THE JOINT VENTURE IS BETWEEN A BRITISH AND UNITED STATES ENTERPRISE, REGARDLESS OF THE SUBSIDIARY OR DIVISION OF UTC RESPONSIBLE FOR PRODUCTION. MOREOVER, IT IS UNDISPUTED THAT THE UNITED STATES CONSTITUTES THE SINGLE MOST IMPORTANT PROJECTED MARKET FOR EXECUTIVE JET AIRCRAFT AND EXECUTIVE JET AIRCRAFT ENGINES, INCLUDING THE PROPOSED RB-401 AND IS SIGNIFICANTLY LARGER THAN ALL OTHER MARKETS COMBINED; (2) IN REACHING THE DECEMBER 15, 1975 DECISION, JUSTICE WAS FULLY AWARE OF EVERY JET ENGINE THAT IS NOW CITED AS A COMPETITOR OF THE PROPOSED RB-401 ENGINE; (3) THE EVIDENCE OF THE JUSTICE INVESTIGATION UNCLASSIFIED

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SUGGESTS THAT IF RR WERE TO RECEIVE ORDERS FOR A SUBSTANTIAL NUMBER OF RB-401 ENGINES, IT WOULD BE LIKELY TO PRODUCE THAT ENGINE ON SOME BASIS THAT WOULD BE LESS ANTICOMPETITIVE THAN A JOINT DEVELOPMENT, MANUFACTURING AND MARKETING EFFORT WITH UTC, WHICH, THROUGH ITS P&W CANADA SUBSIDIARY, IS A PRINCIPAL COMPETITOR OF RR IN THE HIGHLY CONCENTRATED EXECUTIVE JET ENGINE MARKET. THIS IS OF PARTICULAR NOTE SINCE THE PROJECTED DEVELOP-

MENT COSTS OF THE RB-401 ARE SUBSTANTIALLY LESS THAN RR'S SHARE OF THE ANTICIPATED DEVELOPMENT COSTS FOR THE JT-10D AND SINCE THE MARKET FUTURE FOR AN ENGINE IN THE CLASS OF THE RB-401 IS MUCH MORE CERTAIN THAN THE MARKET FUTURE OF THE JT-10D; (4) THE JUSTICE INVESTIGATION HAS REVEALED THAT THE DECISION BY P&W CANADA TO ABANDON ITS JT-25D ENGINE WAS NEARLY CONTEMPORANEOUS WITH ITS DECISION TO

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ENTER THE JOINT VENTURE WITH RR. THIS FACT, ESPECIALLY WHEN VIEWED IN LIGHT OF THE APPARENT LINK BETWEEN THE JT-10D AND RB-401 COLLABORATIONS AND THE TECHNICAL, FINANCIAL AND TRADE REPUTATION CAPABILITIES OF UTC, INCLUDING ITS P&W CANADA SUBSIDIARY, RAISES SERIOUS COMPETITIVE PROBLEMS.

5. JUSTICE CONCLUDES THAT THE PROPOSED RB-401 COLLABORATION PRESENTED SERIOUS COMPETITIVE PROBLEMS WHEN IT WAS FIRST INVESTIGATED IN 1975 AND CONTINUES TO PRESENT SUCH PROBLEMS, NOTWITHSTANDING THE SO-CALLED CHANGED CIRCUMSTANCES CITED TO BY RR AND UTC.

6. TEXT OF THE FULL JUSTICE LETTER BEING POUCHED. ROBINSON

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